

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

X

Mildred Melendez,

: Index Number:
Date Purchased:
Date Filed:

Plaintiffs : SUMMONS

-against- :

City of New York, New York City Police Department, :
Detective Anthony Disimone, Shield 340 of the :
NARCBBX Command and New York City Police :
Officers John Doe,

: Plaintiff's residence is:
308 East 139 Street
Bronx, NY 10454

Defendants

X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to Answer the Verified Complaint in this action and serve a copy of your answer, or if the Verified Complaint is not served with this Summons to serve a notice of Appearance on the Plaintiffs attorney within twenty (20) days after the service of this Summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this Summons is not personally delivered to you within the State of New York) and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Verified Complaint.

The basis of venue designated is that the cause of action arose in Bronx County.

Dated: June 26, 2017
New York, NY

Yours etc.,

LAW OFFICES OF JASON A. STEINBERGER, LLC
Attorney for Plaintiff
505 Eighth Avenue, Suite 701
New York, NY 10018
(646) 256-1007

To: City of New York

New York City Police Department

Detective Anthony Disimone, Shield 340 of the NARCBBX Command

New York City Police Officers John Doe

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

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Mildred Melendez,

:
:

Plaintiffs : VERIFIED COMPLAINT

-against- :
:

City of New York, New York City Police Department, :
Detective Anthony Disimone, Shield 340 of the :
NARCBBX Command and New York City Police :
Officers John Doe,

Defendants :
-----X

Plaintiff, by and through his attorney, JASON A. STEINBERGER, Esq, for his complaint,
alleges upon information and belief as follows:

STATEMENT OF FACTS

1. That at all times hereinafter mentioned, Plaintiff Mildred Melendez (hereinafter referred to as "MELENDEZ") is a resident of Bronx County, State of New York.
2. That at all times hereinafter mentioned, the Detective Anthony Disimone, Shield 340 of the NARCBBX Command, (hereinafter referred to as "DISIMONE") was employed by the New York City Police Department.
3. That at all times hereinafter mentioned, the New York City Police Officers John Doe, the officers involved in the arrest of MELENDEZ, (hereinafter referred to as "DOES") were employed by the New York City Police Department.
4. That at all times hereinafter mentioned, Defendant City of New York, is a municipal corporation organized and existing under the laws of the State of New York, with a principal place of business located at 1 Centre Street, County of New York State of New York.

5. That at all times hereinafter mentioned, Defendant New York City Police Department, is an agency created and maintained by the above municipal government.

6. On or about June 28, 2016 notice required by Municipal Law 50-E was given to City of New York, by personal service. Said notice set forth the facts underlying Plaintiffs' claim against the City of New York, and its agents and employees. To date, no answer has been received by Plaintiff and no compensation has been offered by the City of New York.

7. That on or about January 23, 2017 a hearing required by Municipal Law 50-H was conducted. At said hearing, Plaintiff testified and set forth the facts underlying Plaintiffs' claim against the City of New York and its agents and employees. To date, no answer has been received by Plaintiff and no compensation has been offered by the City of New York in response to this claim, and more than thirty (30) days have elapsed.

8. That on or about September 20, 2015 at approximately 12:00AM in the vicinity of 383 East 141 Street, Bronx NY, Plaintiff was walking home from a friend's home when DISIMONE and DOES stopped, handcuffed and arrested Plaintiff.

9. That at no time did Plaintiff engage in any unlawful or illegal behavior.

10. That at no time did Plaintiff sell anything nor was she in possession of anything of an illegal or unlawful nature.

11. That after Plaintiff was arrested, she was transported to the 40 Precinct.

12. That while Plaintiff was inside of the 40 precinct, Plaintiff was held in a holding cell occupied with other females for several hours.

13. That while Plaintiff was inside of the 40 precinct, he was subjected to a strip search and nothing of an illegal nature was found.

14. That after several hours Plaintiff was removed to Bronx Central Booking located at 215 East 161 Street, Bronx NY 10451.
15. That while Plaintiff was held at Bronx Central Booking she was held in a cell with other females for several hours.
16. That on or about September 21, 2015, Plaintiff was arraigned in Bronx County Criminal Court, wherein she was charged with Criminal Sale of a Controlled Substance and related offenses under docket 2015BX044815.
17. That at the time of her arraignment, Plaintiff was released on her own recognizance.
18. That on and between September 21, 2015 and March 28, 2016 Plaintiff made several court appearances until the matter was dismissed upon application of the Bronx County District Attorney.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS

19. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 18, as if more fully stated herein at length.
20. That Defendants acted with actual malice toward Plaintiff and with willful and wanton indifference to and deliberate disregard for the statutory and constitutional rights of the Plaintiff.
21. That the actions of the Defendants constituted unreasonable deprivation of liberty without due process of law.
22. That as a result of the actions by Defendants, Plaintiff was traumatized and fears his physical safety when he sees and encounters members of the New York City Police Department from that day and onward.
23. That as a result of the Defendants' actions, Plaintiff has been unable to sleep.
24. That as a result of the Defendants' actions, Plaintiff missed several days from work.

25. That as a result of the Defendants' actions Plaintiff sustained damage to his person in the sum within the jurisdiction of the Supreme Court and in excess of all inferior courts.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS

26. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 25, as if more fully stated herein at length.

27. The intentional verbal abuse, false arrest, false imprisonment and malicious prosecution by Defendants violated the rights of the Plaintiff as guaranteed by the Fourth, Fifth and Eighth Amendments to the Unites States Constitution, as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable.

28. Defendants having no lawful authority to arrest Plaintiff, did, nevertheless, unlawfully arrest Plaintiff with actual malice toward him and with willful and wanton indifference to and deliberate disregard for his constitutional rights. Thus Plaintiff is entitled to both compensatory and exemplary damages.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS

29. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 28, as if more fully stated herein at length.

30. Defendants conspired to violate Plaintiff's statutory civil rights in violation of 42 U.S.C. sec.1983, et al as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable. Thus Plaintiff is entitled to both compensatory and exemplary damages, as well as attorney's fees.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS

31. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 30, as if more fully stated herein at length.

32. Plaintiff was verbally abused, falsely arrested, falsely imprisoned and maliciously prosecuted by Defendants in a manner that was extreme, outrageous and unjustified and caused Plaintiff to suffer physical and severe emotional distress for which the Defendants are individually liable. The verbal abuse, false arrest, false imprisonment and malicious prosecution on and of Plaintiff by Defendants were unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of Plaintiff. Plaintiff is thus entitled to compensatory and exemplary damages.

33. That during the pendency of the case, Defendants maliciously prosecuted Plaintiff by continuing to cooperate in a prosecution when Plaintiff should never have been arrested. Plaintiff is thus entitled to compensatory and exemplary damages.

AS AND FOR A FIFTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND NEW YORK CITY POLICE DEPARTMENT

34. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 33, as if more fully stated herein at length.

35. At all times pertinent hereto, DISIMONE and DOES were acting within the scope of their employment as officers of the New York City Police Department and City of New York.

36. The City of New York and New York City Police Department are each liable for compensatory damages under the doctrine of respondeat superior for the intentional torts that DISIMONE and DOES committed within the scope of their employment.

**AS AND FOR A SIXTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND
NEW YORK CITY POLICE DEPARTMENT**

37. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 36, as if more fully stated herein at length.

38. The City of New York and New York City Police Department's failure to provide adequate training and supervision to DISIMONE and DOES constitutes a willful and wanton indifference and deliberate disregard for human life and the rights of private citizens, including Plaintiff. Plaintiff is thus entitled to compensatory exemplary damages.

**AS AND FOR A SEVENTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK
AND NEW YORK CITY POLICE DEPARTMENT**

39. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 38, as if more fully stated herein at length.

40. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted and tolerated the unreasonable detention of Plaintiff.

41. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted the wanton indifference to and deliberate disregard for the statutory and constitutional rights of Plaintiff.

WHEREFORE, Plaintiffs each demand judgment against the Defendants as follows:

On the first cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts;

On the second cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts, together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the third cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the fourth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the wanton and willful nature of the Defendants actions;

On the fifth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts

On the sixth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts.

On the seventh cause of action, a sum within the jurisdiction of this Court and in excess
of all inferior courts.

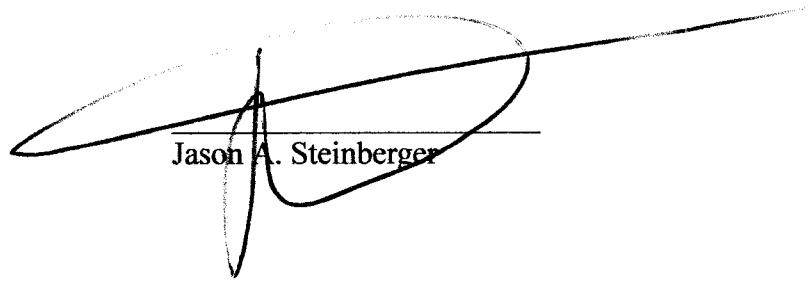
Law Offices of Jason A. Steinberger, LLC

Jason A. Steinberger, Esq.
Attorney for Plaintiffs
505 Eighth Avenue, Suite 701
New York, NY 10018
(646) 256-1007

STATE OF NEW YORK: COUNTY OF NEW YORK

The undersigned, an attorney admitted to practice in the State of New York, under penalties of perjury, affirms the following to be true: Affirmant has read the foregoing Complaint and the contents thereof; the same is true to affirmant's own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters affirmant believes it to be true; and the reason this verification is made by affirmant and not by the plaintiff is because the plaintiff is not within the county in which your affirmant maintains his principal office. The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are communications with the plaintiff, review of records and documents within affirmant's possession.

Affirmed: June 26, 2017


Jason A. Steinberger

Index Number:**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

MILDRED MELENDEZ,

Plaintiffs

-against-**CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT, DETECTIVE ANTHONY DISIMONE, SHIELD 340 OF THE NARCBBX COMMAND AND NEW YORK CITY POLICE OFFICERS JOHN DOE,****Defendant.**

SUMMONS AND COMPLAINT

LAW OFFICES OF JASON A. STEINBERGER, LLC
505 Eighth Avenue
Suite 701
New York, NY 10018

To:

Attorney (s) for Defendant(s)

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE that the within is a (certified) true copy of
 entered in the office of the clerk of the within named Court on**NOTICE
OF ENTRY** that an Order of which the within is a true copy will be presented for settlement to the Hon.
NOTICE OF SETTLEMENT at once of the Judges of the within named Court,
on 200 , at m.

Dated:

**JASON A. STEINBERGER, ESQ.
505 Eighth Avenue, Suite 701
New York, NY 10018**

To:

Attorney(s) for